

08-977 SEP 16 2008

No. _____ OFFICE OF THE CLERK

In The
Supreme Court of the United States

RANDOLPH E. GREEN,

Petitioner,

V.

UNITED STATES DEPARTMENT OF LABOR,
SECRETARY OF LABOR ELAINE CHAO,
WATERTOWN ARSENAL,
DEPARTMENT OF THE ARMY,
U.S. PUBLIC HEALTH SERVICE HOSPITAL,
CAROL ADAMS, DISTRICT DIRECTOR,
EDWARD DUNCAN, DEPUTY DIRECTOR,

Respondent.

On Petition for A Writ of Certiorari or
An Appeal to the Supreme Court of
the United States
Pursuant to 28 USC Section 1211 Rule 38(A)

PETITION FOR WRIT OF CERTIORARI
OR APPEAL

Randolph E. Green
8 Woodbine Street
Roxbury, MA 02119
Phone: (617) 445-6488

QUESTIONS PRESENTED
FOR REVIEW - CONSTITUTIONAL CRITERIA
ESTABLISHED ACTS OF CONGRESS

Title 5 USCA Section 8107 Act
Title 5 USCA Section 8110 Act
Title 42 USCA Section 1981 Act
Title 42 USCA Section 1983 Act
Title 42 USCA Section 1985(3) Act
Title 42 USCA Section 1988 Act
Title 42 USCA Section 2000a2 Act

**Fifth Amendment to the
United States Constitution**

**Thirteenth Amendment to the
United States Constitution**

**Fourteenth Amendment to the
United States Constitution**

Title 5 USCA Section 7103 Act and 7116 Act
Federal Digest Section 32 Act
Title 29 USCA Section 666 Act

1 Question Presented

Pursuant to Title 5 USCA Section 8107, the secretary of labor Etal has deprived and has violated petition right to paid compensation schedule for petitioner April 8, 1964 injury.

2 Question Presented

Pursuant to title 5 USCA section 8110, the secretary of labor has violated and has deprived petitioner and petitioner's wife Melba L. Green and petitioners 8, dependent children from receiving augmented compensation pursuant to the FECA, program.

3 Question Presented

Pursuant to title 42 USCA section 1981, the secretary of labor has deprived petitioner of the established criteria of the Equal Rights under the law to a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process.

4 Question Presented

Pursuant to title 42. USCA section 1983. The secretary of labor has constituted deprivation of petitioner civil rights against petitioner on January 18, 1967. For terminating petitioner compensation benefits pay from the office of workers compensation program, before and without affording petitioner a fair and an impartial hearing, a judicial or administrative hearing, conducted in accordance with due process.

5 Question Presented

Pursuant to title 42 USCA Section 1985 (2) and (3) the secretary of labor Etal has constituted conspiracy against petitioner involving case No. A1-42911, and constituted obstructing of justice for the purpose of depriving and violation of petitioner due process right to a fair and an impartial hearing, a judicial administrative hearing, conducted in accordance with due process.

6 Question Presented

Wherefore pursuant to title 42 USCA Section 1988, the secretary of labor has interfered and has deprived petitioner of the proceeding in the vindication of petitioner civil rights in violating of petitioner due process right to a fair and an impartial hearing. A judicial or administrative hearing conducted in accordance with due process.

7 Question Presented

Where as in pursuant to Title 42 UDCA Section 2000 A1 the secretary of labor Etal has interfered with petitioner civil rights by withholding petitioner from exercising petitioner right privilege secured by Section 2000A or 2000A1 including racial discrimination in violation of Title 42 USCA Section 2000A2 against petitioner due process rights to a fair and impartial hearing, a judicial or administrative hearing, conducted in accordance with due process.

8 Question Presented

Pursuant to the established constitutional criteria of the Fifth Amendment to the constitution of the United States, the secretary of labor Etal has violated petitioner due process right on January 18, 1967, by using wrongful conduct action of depriving petitioner of the due process clause right, to a fair and an impartial hearing. A judicial or administrative hearing, conducted in accordance with due process.

9 Question Presented

Pursuant to the established criteria of the thirteenth amendment of the constitution law of the United States, the secretary of labor etal as a result of the use of wrongful conduct in violation of petitioners thirteenth amendment right, by using involuntary servitude slavery against petitioner civil rights and due process rights and constitutional rights, guaranteed to petitioner by the fifth, thirteenth and fourteenth amendment to the constitution of the united states was violated on January 18, 1967.

10 Question Presented

Pursuant to the fourteenth amendment of the constitution, the secretary of labor etal has abridged deprived petitioner of petitioner right to due process of law guaranteed by the fifth, thirteenth and fourteenth amendment of the constitution of the united states in violation of petitioner constitutional rights, guaranteed by the due process clause of the fifth, thirteenth and fourteenth amendment to the con stitution of the united states, title 42 USCA section 1981, 1982, 1983, 1985, (2) and (3) 1988 and 2000 A2 and title 5 USCA 8107 and 8110 of title 5.

11 Question Presented

Pursuant to title 5 USCA section 7103 act and 7116 act the employer Watertown Arsenal and supervisor has constituted the use of unfair labor practice against petitioner health and welfare in violation of petitioner right to be offered light duty working condition for physical and health safety condition where the use of unfair labor practice has constituted infliction of emotional stress against petitioner.

12 Question Presented

Pursuant to federal digest 32, the secretary of labor etal has constituted deception constituting fraud against petitioner to defraud and deprive and withhold petitioner from collection punitive damages, pain and suffering damages, infliction of emotional stress damages and monetary damages for petitioner April 8, 1964 injury at work in line of duty.

13 Question Presented

Pursuant to title 29 USCA section 666 act the employer the Watertown Arsenal official employers has deprived and has violated petitioner right to job safety of physical and heath safety condition at work involving petitioner personal injury of April 8, 1964.

14 Question Presented

Pursuant to judge Rya Zobel malicious conduct of the order of dismissal of plaintiff complaint in it entirety with prejudice has constituted conflict against the fifth, thirteenth and fourteenth amendment due process right to the constitution of the united states, in violation of petitioner civil right and violation of petitioner constitutional right guaranteed by the fifth, thirteenth 13th and fourteenth 14th amendment to the constitution of the united states, 42 USCA section 1983, 1985 (2) and (3) and 2000A2 of title 42.

15 Question Presented

Pursuant to judge Rya W. Zobel order of dismissal of petitioner complaint in the entirety with prejudices on July 30, 2007 before and without issue of summons has constituted conduct of interfering with petitioner civil rights due process right and constitutional rights in violation of rule 4 and rule 7 of the federal rule of civil procedure of united states code annotated title 28 violated against petitioner due process right.

16 Question Presented

Pursuant to the first circuit court of appeal 3 three judges order of agreeing with judge order of dismissal of July 30, 2007, March 19, 2008 has constituted first circuit unlawful, misconduct, and misrepresentation and interfering with petitioner proceeding in vindication of petitioner civil rights including racial discrimination and deprivation of federal constitutional rights in violation of united states code annotated title 5 five USCA section 8107, section 8110 and united states code annotated title 42 USCA section 1981, 1983, 1985 (2) and (3) 1988 and 2000A2 of title 42.

17 Question Presented

Wherefore the first circuit court of appeal five judges ruling against petitioner on June 20, 2008 has violated petitioner due process right and petitioner civil rights and petitioner constitutional rights of failure and refusal to afford petitioner prior service of process and a fair impartial hearing, a judicial or administrative hearing. Conducted in accordance with due process wherefore the conduct used by the district court and the first circuit court has violated petitioner constitutional rights to be heard in a hearing to be recorded for the record guaranteed by the Fifth Amendment to the constitution of the United States.

See Amendment XIV 14th (1868)

18 Question Presented

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and the state wherein they reside no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within the jurisdiction the equal protection of the laws.

See Constitutional Law Key 2566

19 Question Presented

Constitutional Law Key 2566, the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner U.S.C.A. Constitution Amendment 5. By means which Plaintiff Appellant has been deprived of his rights to due process of law, for the April 8, 1964 traumatic right elbow injury, which resulted in a nervous breakdown, which has continued through the present in this case.

See Article VI

20 Question Presented

Article VI of the Constitution makes the Constitution the "Supreme law of the land" in 1803 Chief Justice Marshall, speaking as a unanimous court referring to the Constitution as the fundamental and paramount law of the nation, declared in the notable case of Marburg V. Madison, that it is emphatically the province and duty of the judicial department to say what the law is.

LIST OF PARTIES

A list of all parties to the proceeding in this Court whose judgment is the subject of this petition for redress and relief as follows:

All parties appear in the caption of the case on the cover page.

The disclosure statement.

Randolph E. Green, Petitioner

United States Department of Labor

Secretary of Labor Elaine Chao

Watertown Arsenal

Department of the Army

United States Public Health Services Hospital

Carol Adams District Director

Edward Duncan Deputy Director

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TABLE OF AUTHORITIES

Cases in support of Petitioner's claims

Soto Flores, 103.F 3d 1056.1061 (1 ct cir 1971)

McNamara v. Honeyman, 406 Mass.43.52 (1989)

Baker v. Carr 369 UA 198, 92, S, ct. 691 Ed.2ed 663 (1962) This civil action was brought under 42 USCA Section 1983 and 1988.

Cooper v Aaron v 348.US 1.8 Scat. 1401. L. Ed. 2d 5 (1958)

Smith v. Wade 461.US.30.50-51 (1983)

Clark v. Taylor 710 F 2d4. 16(C 1st cir. 1983) Niga Supr. 355.

Griffin v. Brackenridge 403 U 88 102 (1971)

Doe v. Board of Education of Honenegah Community High School District No. 207, ND 111, 2993. 833 F. Supp. 1366.

Wilson v. Rackmill, 878 F. 2d 772 774 3 cir (1989).

Tyler v. Carter, 151 F.R.D. 537. 5540 (S.D. N.Y. 1983)

As held in the 1993 United State Supreme Court Denton v. Hernandez 504 U.S. 25. 112 S Ct. 1728.

Crew v. Petrosky D.C. PA 1981, 509 F. Supp 1199 Deception constituting fraud and liability thereof

US III.7875 Nidd v. Burrows, 91 US 42.23L Ed 286

U.S. N.H. 1951 Fraud Lord v. Goddard, 54 US 198, 73 How, 198.14LEd. 111.

App. D.C. 1904 Tyner v. US, 23 App D.C. 324.

C.C.A. Colo. 1925 Greeley National Bank v. Wolf 4F. IB. 67.

C.C.A. NY Topping v. Trade Bank of New York, 96 F. 2d 116.

D.C. 111, 1933 Fraud is deception brought about by misrepresentation of fact Re: Bowman Hardware & Electric Co. F. Supp. 82 reversed C.C.A. 67 F.2d 792.

Punitive damages are recoverable in sec. 1983 suit where defendants Et. al.'s conduct is unlawful and unconstitutional, depriving plaintiff appellant of his federally protected rights) see Smith V. Wade. 461u.s. 30.50-51(1983): Clark V. Taylor.710F.2d4. 14 (1stcer 1983) miga.supra.at.355.

Protected right or privileges see Griffin V. Breckenridge 403 u.s.88 102 (1071) I, Plaintiff Appellant Randolph E. Green, am the rightful living victim and witness who can give firsthand account information who experienced on April 8, 1964 a traumatic right elbow injury at the Watertown Arsenal place of employment in the line of duty, which resulted in a nervous breakdown on September 30, 1964, which has continued through the present in this case.

Government officials' interference with Plaintiff Appellant's constitutional right of access to courts can give rise to cause of action under federal rights statute. Doe V. Board of Education of Honenegah Community High School District No. 207, N.D. III.2993, 833 F. Supp. 1366. The right of access to the courts is protected by the due process clause of U.S.C.A. Const. Amend. 14 and is also part of the right to petition protected by U.S.C.A. Const. Amend.1. Crew V. Petrosky, D.C. pa1981, 509 F. supp 1199.

STATEMENT OF THE BASIS FOR JURISDICTION

Pursuant to the Supreme Court jurisdiction of Title 28 USCA Section 1254 (1) that empowers the Supreme Court to entertain the certiorari wherefore in this proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

The constitutional criteria of the 1964 Federal Civil Rights Act has been established for the Negro, Black, Woman and Man of Color pursuant to the United States Code Annotated Title 42 USCA Sections, 1981, 1982, 1983, 1988, and 2000A2. Wherefore Petitioner, who is a Negro, Black, Man of Color, and family members reside, has been discriminated with gross injustice and hardship against Petitioner and Petitioner's wife and eight (8) dependent children.

Wherefore the First Circuit Court Judges' own misconduct actions taken against Petitioner by the judgment entered on March 19, 2008; before and without affording Petitioner a fair and impartial hearing, a judicial or administrative hearing conducted in accordance with due process. Wherefore the order of judgment is null and void.

The First Circuit Court of Appeals Judges' own malicious conduct of denying Petitioner for rehearing en banc filed by Appellant, Randolph E. Green 07-2355 appeal dismissed on June 20, 2008 before and without affording Petitioner a fair and an impartial hearing, a judicial or administrative hearing conducted in accordance with due process. The order of dismissal

of the appeal on June 20, 2008, is null and void on the grounds that the order of judgment and the order of dismissal do not comply with constitutional criteria of due process that has been established by Amendment V (1791).

STATEMENT OF THE CASE

INVOLVING MEDICAL TREATMENT

1. I, Randolph E. Green, was an employee of the Watertown Arsenal, a Department of the Army, as the number one all round welder. On April 8, 1964 I injured my right elbow in the line of duty at work and as a result of my injury I suffered right traumatic ulna neuritis emotional trauma aggravated by injury to right ulna diagnosed by Dr. A. B. Bloomenthal, M.D. on or about April 15, 1964.
2. On or about July 1, 1964, I, Randolph E. Green was treated at the US Public Health Service Hospital with whirlpool physio-therapy of 28 times. The 28 whirlpool treatments constituted access of punitive inflection of emotional distress damages against my health and welfare treatments at the hospital.

3. On or about November 2, 1964, November 19, 1964, December 3, 1964, and December 16, 1964 orthopedic surgery Dr. Ulin, MD. Fit for light duty – no vibrating hammer pallet gun under any circumstances, no lifting over 20 pounds, no vibrating machines of any kind and return to clinic on January 13, 1965.
4. I, Randolph E. Green, saw Dr. A. P. Bloomenthal for my injury in performance of my duties on April 8, 1964 first aid. Diagnosis right traumatic ulna neuritis therapy, physio-therapy analysis for pain immobilization, disability, and office visits April 8, 1964 first aid \$15.00. I was treated from on or about April 8, 1964 by Dr. A. P. Bloomenthal for about 30 treatments on 1964 and about 18 treatments in 1965 diagnosis – right traumatic ulna neuritis, emotional trauma aggravated by injury to right ulna. Valium 5 mg, entered VA Hospital on September 30, 1965 and was released from VA Hospital on or about November 22, 1965; released from VA Hospital treatments on or about March 9, 1965 under continuing therapy by Dr. A. P. Bloomenthal.
5. On or about August 14, 1964 and December 20, 1964, I, Randolph E. Green, saw Dr. Edwin W. Guiney – Orthopedic MD. He is still having cosalgia, type of pain was aggravated by heavy repetitive work; otherwise he finds that he is able to do his regular job quite satisfactorily. His main complaint was that his pain was aggravated by using some sort of a riveting air type gun which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain.

6. On August 21, 1964, September 3, 1964, October 2, 1964, March 23, 1965, I, Randolph E. Green saw Dr. Jordan Joseph - Neurology MD, placed my arm in a sling. Impression: right ulna neuritis related to trauma on March 18, and an on March 23, 1965 for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965 because he felt that he was being mistreated.

He feels that they made him use his right arm more than necessary, he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him.

7. On September 30, 1965, I, Randolph E. Green was admitted to the VA Hospital for about two months - diagnosis schizophrenic reaction, schizo-affective type, manifested by withdrawal depression, and some paranoid I was in the VA Hospital from September 30, 1965 through November 22, 1965.

External precipitating stress injured at work
predisposition: undetermined prognosis of
incapacity moderate.

Signed by H. Markey
Ward Physician

I, Randolph E. Green, saw Dr. Stephen W. Meagher, MD – practice limited practice limited to surgery of the hand on November 26, 1965, September 27, 1966, February 3, 1967, August 6, 1974 and May 29, 1979; Dr. Stephen W. Meagher, MD practice limited to reconstructive surgery of the hand. Job analysis and corrective tool design.

Re: Randolph E. Green vs. Watertown Arsenal

Opinion

You have definitely reached an end result from active treatment for the injury sustained to your right upper extremity, at work, on April 8, 1964. You will not require further active treatment for this complaint in my opinion. You will permanently be unable to perform the duties that you were doing at the time of the injury. You cannot perform any heavy work or rapid manipulative work with the right upper extremity.

Disability

There is a loss of function of 20% in the right elbow, and 30% in the right major hand as a hand. There is an overall loss of function of 40% in the right upper extremity as an extremity. Disfigurement of the hand is sight. Disfigurement of the elbow is slight. An end result has been reached.

Sincerely yours,

Stephen W. Meagher, M.D.

SWM:lar

Statement of accepted facts in Case No. A1-42911
Randolph E. Green

The Bureau accepts as factual that Randolph E. Green born November 13, 1921 sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work on April 8, 1964, that he resigned February 2, 1966 because disability related to injury of April 8, 1964 was being aggravated by working from September 30, 1965 to November 19, 1965. He was a patient at the VA Hospital, Bedford, MA. Diagnosis - schizophrenic reaction, schizoaffective type manifested by withdrawal, depression and some paranoid thinking in partial remission and that the external precipitating stress injured on April 8, 1964 signed by Dr. H. Markey of the VA Hospital on September 30, 1965.

Bureau of Employee Compensation

In the matter of the claim for compensation under the Federal Employers Compensation act of Randolph E. Green - claimant, employed by Department of the Army - Watertown Arsenal, Watertown, Massachusetts.

Such investigation in respect to the above claimant above named, having been made as is considered necessary, and after due consideration of such claim and Report of Record, the Bureau makes the following

Award

Accrued compensation as follows: the sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive of the then sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction a day inclusive - Total award \$6,097.36 by the office and the Secretary of Labor - Bureau of Employees Compensation Program.

That the Claimant is entitled to augmented compensation for Dependents. Wherefore, I, Petitioner Randolph E. Green have never received my checks for augmented compensation benefits for my wife, Melba L. Green and my eight (8) dependent children; namely Dolly I. Green born October 21, 1950, William M. Green born August 1, 1953, Edward D. Green (deceased) born December February 5, 1956, Minnie S. Green born July 29, 1957, Elizabeth A. Green born June 4, 1959, Craig A. Green born July 16, 1961, Jonathan D. Green born March 16, 1963, and Kimberly D. Green born August 18, 1964.

Pursuant to the strict interpretation of the letter of the law of the Constitution of the United States by means wherefore the Secretary of Labor of Bureau of Employees Compensation has deprived me of my legal right of due process and made their decision and took action in my Case No.A1-42911 and made a determination evaluation of Petitioner Randolph E. Green's health and welfare condition of that as a result of such injury, the Claimant has permanent disability equivalent to 20%, permanent partial loss of use of the right arm, before and without a medical doctor's evaluation and before and without affording Petitioner

Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of the U.S. Department of Labor Bureau of Employee Compensation took action and issued an award on January 18, 1967 in the amount of \$6,097.36 and two days later the U.S. Department of Labor, Secretary of Labor, Et. al., Bureau of Employees Compensation Program issued a check to me in the amount of \$6,097.36 before and without affording Petitioner Randolph E. Green a fair and impartial hearing; a judicial or administrative hearing conducted in accordance with due process. A second check was issued in the amount of \$383.75 on February 16, 1967 to Petitioner of a full settlement, which I refused to settle for.

On or about February 8, 1975, I, Randolph E. Green wrote my attorney - Michael S. Kistin at 6 Beacon and disagreed with the amount of \$6,480.51 check due to the fact that there are more fees to be claimed, Signed by me, Randolph E. Green on February 8, 1967.

The record will clearly show by the preponderance of the evidence beyond a reasonable doubt that the office of the Secretary of Labor, Compensation Program took action and terminated my, Randolph E. Green, worker's compensation program benefits on January 18, 1967, before and with affording Petitioner prior service of process and a fair and impartial hearing. A judicial or administrative hearing conducted in

accordance with due process guaranteed by the Fifth Amendment due process clause of the Constitution of the United States of America.

I, Petitioner, Randolph E. Green saw Dr. Stefan Krause, M. D. on February 24, 1979 for a psychiatric evaluation!. He gave history of being hospitalized at the Bedford, MA VA Hospital in 1965. Petitioner has a 4th grade education.

My diagnosis of this patient is schizophrenic was that he be hospitalized and given a course of electric shock treatments which I felt might be beneficial to him in view of his depression and the paranoid element of his psychosis.

I, Petitioner, Randolph E. Green saw Dr. Daniel M. Weiss and was examined on May 24, 1979, June 6, and on June 14, 979 it would appear that this man was injured while at work and that this claim of injury has been documented elsewhere and that this injury took place on April 8, 1964, some fifteen years ago. It further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury which he had sustained and which has been previously mentioned. Signed by Dr. Daniel M. Weiss.

The U.S. Department of Labor office of Workers Compensation Program's compensation finding of facts will clearly show that he record by order of the Director, OWCP David T. Woods - Chief Branch of Claims of June 1, 1985, that the parties involved made their own evaluation of Petitioner's health and welfare condition

before and without affording me, Petitioner Randolph E. Green, a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process.

I, Petitioner Randolph E. Green saw Dr. Jon Papajohn, PhD., Consultant Psychologist on December 20, 1989. This is a summary of my evaluation of December 20, 1989.

My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further re-examination in light of these facts.

I, Petitioner Randolph E. Green, declaration, 28 USCA Section 1746 of Petitioner Randolph E. Green, dependent wife Melba L. Green, and eight (8) dependent children whose ages when I was injured on April 8, 1964:

Dollie L. Green born October 21, 1953; William M. Green born August 1, 1954; Edward D. Green born February 5, 1956; Minnie S. Green born July 29, 1957; Elizabeth A. Green born June 4, 1959; Craig A. Green born July 16, 1961; Jonathan D. Green born March 16, 1963; and Kimberly D. Green born August 18, 1964.

Judge Rya W. Zobel
Order of Dismissal
CA No. 07-10385

Order for Dismissal on July 30, 2007 Zobel D. J.

In accordance with Memorandum #41 dismissing this action for the reason stated therein, it is hereby ordered that the above captioned matter is dismissed in its entirety with prejudice by the Court /s/ Lisa unso Deputy Clerk.

Judge Zobel's order of dismissal of CA. No. 07-10385 is in conflict of interest with Petitioner Randolph E. Green's Fifth Amendment due process right. Wherefore such action taken against Petitioner Randolph E. Green on July 30, 2007 before and without affording me, Petitioner, a prior service of process, and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question.

Judge Rya W. Zobel's Conclusion
In Case No. 07.10385

Based on the foregoing it is hereby ordered that this action is dismissed
In its entirety with prejudice.

Pursuant to 28 USC Sec. 1915(§) (3) and Fed. R. App P 24(§) (3) this court finds and hereby certifies that any appeal taken by Plaintiff of the dismissal of this action would not be taken in good faith, and Plaintiff is warned that further frivolous complaints may result in sanctions – so ordered. Dated July 30, 2007 Rya W. Zobel United States District.

The action taken against Petitioner on July 30, 2007, by Judge Rya W. Zobel by means has constituted deprivation of Federal Constitutional Rights guaranteed by the due process clause of the Fifth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America. Wherefore Judge Zobel's court is an agency involved in this Court and the proceedings in this Court in which the constitutionality of an act of Congress is drawn into question.

Judge Rya W. Zobel's actions taken against Petitioner's legal rights of procedural due process in the lower court. Judge Zobel has deprived Petitioner of the Fifth Amendment due process clause right to the Constitution of the United States of America, and the Equal Protection Clause Right of the Fourteenth Amendment of the Constitution of the United States of America. Wherefore, in this proceeding in this Court in which the constitutionality of an act of Congress is drawn into question. Wherefore, I, Petitioner Randolph E. Green emphasize oral argument in this Court, Where I, Petitioner have been denied and have been deprived of my right to a day in court involving Case No. A1-42911, Case No. 07-10835, and Case No. 07- 2355. Wherefore, I, Randolph E. Green emphasize oral argument pursuant to Rule 28, oral argument is requested in this Court. Petitioner has never had a day in court.

and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

PETITION FOR A WRIT OF CERTIORARI OR APPEAL

This is a 1964 Civil Rights Act, it is a federal Workers' Compensation Acts Case, it is an unfair labor practice case and is in violation of Federal Digest 32; and the Petitioner Randolph E. Green respectfully petitions for a Writ of Certiorari or Appeal or Appeal to review the dismissals by the lower courts. Petitioner has been fighting this case for over forty-four (44) years.

- A. Compelling reason for petition for Writ for Certiorari, wherefore, the proceeding in this court in which the constitutionality of an act of Congress is drawn into question. The Secretary of Labor, US Department of Labor, Et. al. are parties in violation of the Petitioner's due process right.
- B. I, Petitioner, Randolph E. Green, am a citizen of the United States of America and am a resident residing in the Commonwealth of Massachusetts; by means who is a poor Black, Man of Color who has been deprived of being afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due

process as it is written and guaranteed by the due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 1983.

- C. Wherefore, I, Petitioner Randolph E. Green and my wife, Melba L. Green and my eight (8) dependent children who reside at 8 Woodbine Street - Roxbury, Massachusetts 02119; who have been discriminated against with gross injustice and hardship involving Case No. A1-42911. Secretary of Labor, US Department of Labor and in Case No. 07-10853RWZ Judge Zobel District Court and in Case No. 07-2355 in the First Circuit court of Appeal; who has deprived me, Petitioner Randolph E. Green, of a fair and impartial hearing. A judicial or administrative hearing, conducted in accordance with due process clause of the Fifth Amendment to the Constitution of the United States, 42 USCA Section 2000A2 Racial Discrimination. There has been no appeal heard in the appeal court.
- D. The United States Department of Labor/ Secretary of Labor Et. al. have constituted racial discrimination and concealment of and all my medical Doctor's evaluation medical reports with gross injustice and hardship in depriving Petitioner Randolph E. Green of full disclosure of my medical doctors medical evaluation reports involving my injury of April 8, 1964, in the line of duty and my injury of September 30, 1965. The proceeding in this Case No. A1-42911, and in case No. 97-10835 RWZ and in Case No. 07-3255, in the First Circuit Court of Appeal. The proceeding in this court which the

constitutionality of an act of Congress is drawn into question pursuant to deprivation of federal constitutional rights, 42 USCA Sections 1983, 1981, 1985(3), 1988, 2000a2 and Title 5 USCA Sections 8107 and 8110.

EVIDENCE OF HEARING

- E. I, Petitioner Randolph E. Green have never been afforded a fair and impartial evidentiary hearing, a judicial or administrative evidentiary hearing conducted in accordance with due process in Case No. A1-42911 FECA, U.S. Department of Labor case and the U.S. Federal District Court Case CA No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

A FAIR AND IMPARTIAL HEARING

- F. I, Petitioner Randolph E. Green have never been afforded a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in Case No. A142911, FECA, U.S. Department of Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

A FAIR FULL IMPARTIAL HEARING

- G. I, Petitioner Randolph E. Green have not been afforded a fair full impartial full hearing, a judicial or administrative full hearing conducted in accordance with due process in case No. A1-42911 FECA U.S. Department of

Labor administrative case and the U.S. Federal District Court Case No. 07-10835 and the First Circuit Court of Appeal Case No. 07-2355.

- H. Petitioner's compelling reasons for petition for Writ of Certiorari or Appeal on the merits wherefore the United States Department of Labor/Secretary of Labor and the U.S. Federal District Court Judge Rya W. Zobel and the U.S. First Circuit Court of Appeals Judges Et. al. have deprived Petitioner Randolph E. Green of the procedural due process legal right before and without affording Petitioner Randolph E. Green a fair and impartial hearing. A procedure judicial or procedure administrative hearing conducted in accordance with procedural due process wherefore the proceeding this court in which the constitutionality of an act of Congress is drawn into question.
- I. Wherefore the proceeding in this court, the Supreme Court of the United States in which the constitutionality of acts of congress is drawn into question. Pursuant to United States Code annotated Title 5 USCA Section 8107, involving Compensation Schedule pay have been violated and Section 8110 violated against Petitioner augmented compensation benefits for dependents was terminated and violated on January 18, 1967, before and without affording Petitioner Randolph E. Green a fair procedural and impartial hearing. A judicial or administrative hearing conducted in accordance with due process of law involving Case No.A1-42911 of the employees' workers compensation program involving the April 8, 1964 injury and

the September 30, 1965 nervous breakdown injury at work in the line of duty.

- J. I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief by law against the Defendants Respondents Et. al. for violating the United States Code annotated Title 42 USCA Section 1981, Equal Rights under the law. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question.
- K. Wherefore, I, Petitioner Randolph E. Green, am entitled to redress for grievances and am entitled to relief from the Defendants Respondents Et. al. for violation of United States Code annotated Title 42 USCA Section 1983, deprivation of rights against Petitioner. Wherefore the proceeding in this Court in which the constitutionality of an act of Congress is drawn into question. For violation of Petitioner's civil rights pursuant to Title 42 USCA Section 1983.
- L. Petitioner is entitled to redress for grievance and is entitled to relief from the Defendants Respondents Et. al. for violation of the United States Code annotated Title 42 USCA Section 1985 (3) conspiracy against Petitioner with gross injustice and hardship. The proceeding in this Court which the constitutionality of an act of Congress is drawn into question.
- M. Petitioner, Randolph E. Green is entitled by law to redress for grievance inflicted against Petitioner and Petitioner is entitled to relief from the Defendants Respondents Et. al. for violation

of United States Code annotated Title 42 USCA Section 1988. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

- N. I, Petitioner Randolph E. Green, am entitled to redress for grievances and relief for inflicting of emotional stress damaged and inflicting of punitive damages and for pain and suffering damages against Petitioner's health and welfare by the Defendants Respondents Et. al. for racial discrimination with gross injustice and hardship of (1) concealment of the medical records, (2) interfering with Petitioner's Civil Rights, (3) withholding and depriving Petitioner of my right and privileges secured by Title 42 USCA Section 2000A1 or 2000A2, (4) withholding full disclosure of the exculpatory evidence of all Petitioner's medical doctors' evaluation medical reports of the medical evidence involving Petitioner's damaged health and welfare in Case No. A1-42911 involving violation of Title 42 USCA Section 2000a2. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.
- O. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt, by the medical doctors' evaluation medical reports who have treated Petitioner from on or about April 8, 1964 through on or about December 20, 1989 is self-explanatory. That the Defendants Respondents Secretary of Labor Et. al. have violated Title 5 USCA Section 8107, compensation schedule against Petitioner on January 18, 1967 and

terminated Petitioner's compensation process and a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

- P. The record of Case No. A1-42911 will clearly show by the preponderance of the evidence beyond a reasonable doubt that the Secretary of Labor Et. al. terminated on January 18, 1967 Petitioner's augmented compensation pay benefits for my wife and eight (8) dependent children's augmented compensation pay benefit which they were entitled to until they all had finished high school or as long as they were in school. Wherefore the Respondents Secretary of Labor Et. al. have constituted violation of Title 5 USCA Section 8110 against Petitioner, my wife and my eight (8) children before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with de process. Wherefore, the proceeding in Court in which the constitutionality of an act of Congress is drawn into question.
- Q. Wherefore, I, Petitioner Randolph E. Green, whose employment in the Watertown Arsenal Agency had ceased because of unfair labor practice by the Defendants Respondents Watertown Arsenal official supervisor Et. al. who refused and deprived Petitioner Randolph E. Green of being afforded light duty work required by medical doctors of the U.S. Public Health Service Hospital in Brighton, Massachusetts involving Petitioner's

April 8, 1964 injury at work in the line of duty. Wherefore, the Defendants Respondents Et. al. violated Title 5 USCA Section 7103 Act and 7116 Act of Congress. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question.

- R. The record will clearly by the preponderance of the evidence beyond a reasonable doubt involving Case No. A1-42911 FECA case where the U.S. Department of Labor Secretary of Labor Et. al. Respondent have violated the Federal Digest 32 by defrauding, depriving, withholding, and terminating Petitioner Randolph E. Green's compensation pay benefits and my wife, Melba L. Green and my eight (8) dependent children augment compensation pay benefits on January 18, 1967 before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process. Wherefore, in fact Petitioner has never received an augmented compensation check for dependents. The proceeding in Court in which the constitutionality of an act of Congress is drawn into question, involving the Fifth Amendment to the Constitution of the United States of America.

OPINIONS BELOW

The Appeal dismissed on June 20, 2008; before and without affording Petitioner a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process in which the constitutionality of an act of Congress is drawn into question.

United States Court of Appeal
For the First Circuit

No. 07-2355

Randolph E. Green
Plaintiff Appellant

v.

United States Department of Labor, Et. al.
Defendants Appellants

Before Torruella Circuit Judge
Stahl, Senior Circuit Judge
And Howard Circuit Judge

Judgment
Entered March 19, 2008

The District Court denied Plaintiffs motion for leave to proceed on Appeal in Forma Pauperis. We conclude that there was neither error of law nor abuse of discretionary in the District Courts IFP determination. The motion for leave to proceed on Appeal IFP is denied and the Appeal is dismissed. See 1st Cir. Loc., R.27.0 (c).

The Appeal Court judges took action against Plaintiff and dismissed Plaintiffs appeal before and without affording Appellant a fair and impartial hearing. A judicial or administrative hearing conducted in accordance with due process right. The proceeding in this Court in which the constitutionality of an act of Congress is drawn into question in the Supreme Court of the United States of America.

**United States Court of Appeal
For the First Circuit**

No. 07-2355

**Randolph E. Green
Plaintiff Appellant**

v.

**United States Department of Labor, Et. al.
Defendants Appellants**

**Petition filed by Appellant Randolph E. Green
for en banc hearing or rehearing en banc certificate of
service was not include 07-2355 05-05-2008.**

**Public Docket not constitutional challenge of
Federal Statute filed by Appellant Randolph E. Green
questioning the constitutionality of an act of Congress
pursuant to Rule 44(§) 07-2355.**

**Order granting motion to file oversize pleading
filed by Appellant Randolph E. Green 07-2355.**

**Order entered by Sandra L. Lynch, Chief
Appellate Judge; Juan R. Torruella, Appellate Judge;
Michael Boudin, Appellate Judge; Kermit V. Lopez,
Appellate Judge; and Jeffery R. Howard Appellate
Judge denying Petition for rehearing en banc filed
by Appellant Randolph E. Green on June 20, 2008
mandate issued on July 8, 2008. This order of denial
was entered June 20, 2008 against Petitioner before**

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United States District Court
District of Massachusetts

Randolph E. Green,
Plaintiff C.A. No. 07-10385-RWZ

v.

United States Department
of Labor, Et Al,
Defendants

Order on Motion To
Proceed Without Prepayment of Fees (#2)

Now before the Court is Plaintiffs motion to proceed in
forma pauperis under 28 U.S.C. 1915:

The motion to proceed with prepayment of fees is:

Granted

Denied for the following reason(s):

No summonses shall issue pending preliminary
screening pursuant to 28 U.S.C. 1915. A separate Order
shall issue upon completion of preliminary screening.

So Ordered

June 25, 2007
Date

/s/ Rya W. Zobel
Rya W. Zobel
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RANDOLPH E. GREEN,)
Plaintiff,)
)
v.)
) C.A. No. 07-
10385-RWZ
UNITED STATES)
DEPARTMENT OF)
LABOR, ET AL.,)
Defendants)

MEMORANDUM AND ORDER

ZOBEL, D.J.

For the reasons stated below: (1) this action is DISMISSED in its entirety with prejudice; (2) pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24 (a)(3), this Court finds, and hereby certifies, that any appeal taken by the plaintiff of the dismissal of this action would not be taken in good faith; and (3) plaintiff is warned that he could be subject to sanctions for filing further frivolous complaints.

BACKGROUND

I. The Underlying OWCP Administrative Proceedings¹

¹ The background of the underlying administrative actions is taken primarily from the statement of facts set forth in Defendant's.

Forty-three years ago, on April 8, 1964, plaintiff Randolph E. Green, now a resident of Roxbury, Massachusetts, sustained an injury to his right elbow while working as a welder at the Watertown Arsenal. On February 2, 1965, he filed a claim under the Federal Employees' Compensation Act ("FECA"), 5 U.S.C. § 8101 *et seq.*, alleging that he sustained permanent nerve damage and other physical and emotional injuries due to this work-related injury. The Office of Workers' compensation Programs ("OWCP"), the agency responsible for administration and implementation of claims under FECA, accepted plaintiff's claim for the right arm injury, as well as his temporary nervous condition, and plaintiff received temporary total disability at a three-quarters augmented rate until November 22, 1965. The OWCP also awarded plaintiff a schedule award based on 20% permanent impairment to his right arm, for the period November 26, 1965 through February 5, 1967.

In 1984, plaintiff sought reconsideration of OWCP's findings that his emotional condition was only temporary in nature and that it has ceased on November 22, 1965.² On June 4, 1985, OWCP determined that based on the medical records, his emotional condition was no longer causally related to his employment injury and his request for further

Memorandum in Support of Motion to Dismiss (#6) in Green v. U.S. Dept of Labor, C.A. 05-11977-RWZ.

² In September 1965, plaintiff was diagnosed with a paranoid schizophrenic condition.

compensation was denied. Thereafter, plaintiff requested reconsideration three additional times.³

More than thirteen years after the last denial, plaintiff on September 11, 2003, again requested that OWCP reconsider his case, on the grounds that his current psychiatric disorder was causally related to his 1964 elbow injury. He also sought an increase in his award based on permanent impairment to his arm. On March 11, 2004, OWCP again denied further review on the grounds that plaintiff's reconsideration request was untimely and did not establish clear evidence error. As required under FECA, plaintiff, who was then represented by counsel, appealed to the Employee's Compensation Appeal Board ("ECAB"). The ECAB affirmed the OWCP's findings in its decision on January 4, 2005. Plaintiff's counsel then filed a petition for reconsideration, which ECAB denied on April 4, 2005.

II. Prior Civil Litigation in Federal Court: C.A. 05-1977-RWZ

After ECAB's denial of his appeal regarding benefits, plaintiff filed a self-prepared Complaint with this Court on September 30, 2005, against the

³ The OWCP denied plaintiff's additional requests for reconsideration on December 4, 1965, September 14, 1989, and August 6, 1990.

Department of Labor ("DOL") and others.⁴ See Green v. Chao, et al., C.A. 05-11977-RWZ.⁵ Plaintiff claimed, *inter alia*, that his Fifth Amendment due process rights and his Fourteenth Amendment equal protection rights were violated in the processing of his claims for FECA benefits. He claimed the DOL violated FECA in denying augmented compensation, that he was defrauded by the DOL and that he had been discriminated by a conspiracy against him, in violation of 42 U.S.C. §§1983 and 1985. Further, although not completely clear in his Complaint, plaintiff appeared to allege a claim under the Federal Tort Claims Act as well. He requested damages in the amount of \$100,000,000.00.

On August 28, 2006, this Court issued a Memorandum of Decision (#11), dismissing the Complaint, noting specifically that plaintiff had a tendency to "[p]eriodically, but relentlessly...pursu[e] various claims relating back to that 1964 injury." This Court granted the defendants' motion to dismiss stating:

⁴ Plaintiff also named Elaine L. Chao, the Secretary of Labor, Terry A. Wallace, the Clerk & Director of the Appeal Board, Colleen Duffy Kiko, Alberto Gonzales, Attorney General for the United States, Carol E. Adams, District Director of the Department of Labor, and President George W. Bush as defendants in this case.

⁵ Initially, this action was assigned erroneously by the Clerk's Office to Senior Judge Edward F. Harrington. The action was thereafter reassigned to this Court as related Civil Action 05-11977.RWZ, pursuant to United States District Court L.R. 40.1(e).

App 7

Plaintiff has, over the years, filed a number of appeals from the decision of Office of Workers' Compensation Programs ("OWCP"), the most recent of which resulted in yet another denial of claims on April 4, 2005. The appeals cannot, however, obscure the one salient fact that the events that gave rise to this litigation occurred more than forty years ago and that all claims are barred by the applicable statute of limitations. In addition, defendant's [sic] correctly point out that FECA explicitly deprives the courts of jurisdiction over compensation claims, 5 U.S.C. § 8128(b), and that since FECA provides the sole remedy for work-related injuries, physical and mental, there is no jurisdiction under the FTCA. Finally, the civil rights claims fail because section 1983 does not apply to actions of the federal government and plaintiff fails to state any facts that would support his claims under section 1985.

Memorandum and Order (#11) at 2. In response to the Memorandum and Order, on September 26, 2006, plaintiff filed a Motion to Vacate the order of Dismissal (#13) This Court denied that motion by electronic Order on October 17, 2006.

III. The Instant Action: Green v. U.S. Dept. of Labor. et al., C.A. 07-10385-RWZ

On February 27, 2007, plaintiff again, proceeding *pro se*, filed a Complaint in this Court arising out of the same facts alleged in his 2005

Complaint. In his latest attempt, plaintiff has brought suit against the same defendants and additional defendants: the DOL, Elaine L. Chao, the Watertown Arsenal, the U.S. Public Health Service Hospital, Carol Adams, and Edward Duncan, Deputy Director. The Complaint is not entirely coherent nor organized, however, from what can be gleaned, as with his 205 Complaint, plaintiff has alleged, *inter alia*, violations of his Fifth and Fourteen Amendment rights to due process and equal protection, violations under FECA, and §§ 1983, 1985. Additionally, he has brought new claims: violation of the Thirteenth Amendment's prohibition against involuntary servitude, as well as claims for unfair labor practices and intentional infliction of emotional distress.

The crux of the involuntary servitude claim is that the defendants:

joined as parties and constituted an actual act of involuntary servitude (slavery) against me the involuntary [sic] the Plaintiff on or about November 22, 1965, for making an unlawful and unconstitutional medical evaluation decision against Plaintiffs health and welfare condition before, without, the failure of the Defendants (OWCP) to refer Plaintiff Employee to a medical referee physician for a medical evaluation prior to November 22, 1965, which has violated and deprived Plaintiff of federal constitutional rights interest...

Compl. at 8.

Plaintiff again seeks \$100,000,000.00 in damages. Along with his Complaint, he filed a Motion for Leave to Proceed *in forma pauperis* (#2), which this Court allowed by separate Order (#3) on June 25, 2007.

DISCUSSION

I. The Court May Screen this Action

Because plaintiff has sought to file this Complaint without the prepayment of the filing fee, summonses have not issued in order to allow the Court to review the Complaint to determine if it satisfies the requirements of section 1915 of Title 28, the federal *in forma pauperis* statute. See 28 U.S.C. § 1915. Section 1915 authorizes the federal courts to dismiss an action in which a plaintiff seeks to proceed without prepayment of the filing fee if the action lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989), or if the action fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. See 28 U.S.C. § 1915 (e) (2).

When subject matter jurisdiction is lacking, there is no arguable or rational basis in law or fact for a claim, Mack v. Massachusetts, 204 F. Supp. 2d 163, 166 (D. Mass. 2002), and the action may be dismissed *sua sponte* and without notice under Section 1915. Neitzke, 490 U.S. at 327-28 (interpreting the former § 1915 (d)); accord Denton v. Hernandez, 504 U.S. 25, 32-33 (19922). ("clearly baseless" actions may be dismissed).

Similarly, claims lack an arguable or rational basis in law when they are brought against a defendant

who is clearly entitled to immunity, involve the infringement of a legal interest which clearly does not exist, or describe unreal scenarios. See Neitzke, 490 U.S. at 327-328 (interpreting the former § 1915 (d)); accord Denton, 504 U.S. at 32 (“clearly baseless” actions may be dismissed).

See also Mack, 204 F. SupOp. 2d at 166; Tapia-Ortiz v. Winter, 185 F.3d. 7, 11 (2nd Cir. 1999) (affirming dismissal of plaintiffs request for convening a grand jury to investigate alleged conspiracy of 20 judges and assistant U.S. Attorney); Street v. Fair, 918 F.2d 269 (1st Cir. 1990) (§ 1915 (d) *sua sponte* dismissals do not require notice to plaintiff with opportunity to respond if the claim is based on an “indisputably meritless legal theory” (such as where defendants are clearly immune)).

A district court may also dismiss a complaint *sua sponte*, regardless of whether or not payment of the filing fee has been received, where the allegations contained in the complaint, taken in the light most favorable to the plaintiff, are patently meritless and beyond all hope of redemption. Gonzalez-Gonzalez v. United States, 257 F.3d 31, 32 (1st Cir. 2001) (citations omitted); cf., Bell v. Hood, 327 U.S. 78, 682-83 (1946) (observing that dismissal for lack of subject-matter jurisdiction may result if the federal claim “clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or...is wholly insubstantial and frivolous.”).

In this case, the Court recognizes that plaintiffs *pro se* pleadings must be construed generously. Hughes v. Rowe, 449 U.S. 5, 9 (1980); Haines v. Kerner, 404 U.S. 519, 520 (1972); Instituto de Educacion Universal

Corp. v. U.S. Dett. of Education, 209 F.3d 18, 23 (1st Cir 2000). However, even under a generous reading, this action is dismissed *sua sponte*, for the reasons stated below.

II. Lack of Jurisdiction to Review the Denial of Augmented FECA Benefits

FECA creates a system of workers' compensation for federal employees injured or killed in the course of performing their duties. FECA is the federal employees' exclusive remedy for on-the-job injuries. 5 U.S.C. § 8116(c).⁵ W4cctio 8116(c) is designed to protect the government from suits under other statutes, such as the FTCA. Lockheed Aircraft Corp. v. United States, 460 U.S. 190, 193-94 (1983). Under FECA, federal "employees are guaranteed the right to immediate, fixed benefits, regardless of fault and without need for litigation, but in return they lose the right to sue the Government." *Id.* at 194. Once the

⁵Section 8166(c) states:

The liability of the United States or an instrumentality thereof under this subchapter or any extension thereof with respect to the injury of death of an employee is exclusive and instead of all other liability of the United States or the instrumentality to the employee...in a direct judicial proceeding, in a civil action,...or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute...

⁵ 5 U.S.C. § 8116(c) (emphasis added).

Director of OWCP determines that the disability resulted from a work-related injury, the claimant is limited to the remedies authorized by the FECA, even if a particular type of damage or consequence, such as pain and suffering, is not compensable under the FECA. See United States v. Lorenzetti, 467 U.S. 167, 174 (1984).

As a general rule, federal courts lack jurisdiction to review the action of the Secretary or his designee in allowing or denying FECA benefits. 5 U.S.C. 8128(b)⁷; Paluca v. Secretary of Labor, 813 F.2d 524, 527-28 (1st Cir. 1987) ("Federal employees have no right to appeal compensation decisions on FECA statutory grounds, whether these decisions are made individually or through broad-impact changes in policy"). However, § 8182(b) does not preclude judicial review altogether. Paluca, 813 F.2d at 526-27 ("the district court has jurisdiction over constitutional challenges to the Secretary's actions administering the FECA"). If the Secretary's decisions are "so attenuated and unsubstantial as to be absolutely devoid of merit," the district courts will have jurisdiction to review constitutional challenges. Id. (citing Newburyport

⁷ Section 8128(b) states:

The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

- (1) Final and conclusive for all purposes and with respect to all questions of law and fact; and
- (2) Not subject to review by another official of the United States or by a court by mandamus or otherwise.

Water Co. v. Newburyport, 193 U.S. 561, 579 (1904)). Jurisdiction to review alleged constitutional violations does not "arise simply because an averment is made as to the existence of a constitutional question, if it plainly appears that such averment is not real and substantial, but is without color merit." Newburyport Water Co., 193 U.S. at 576 (accord Jones v. Nat'l Bank of Chester County, 72 F.2d 195 (3rd Cir. 1934)). See Binderup v. Pathe Exchange Inc., 263 U.S. 291 (1923); Knight v. State of Kan., 1993 F.3d 546 (10th Cir. 1993) (Table; unpublished disposition). Moreover, a "garden-variety claim for benefits" to which a constitutional label is affixed is plainly barred by § 8128(b). See Markham v. United States, 434 F.3d 1185 (9th Cir. 2006); Czerkies v. U.S. Dep't of Labor, 73 F.3d 1435, 1443 97th Cir. 1996). See also Sugrue v. Derwinski, 26 F.3d 8, 11 (2nd Cir. 1994) ("...the courts do not acquire jurisdiction to hear challenges to benefits determinations merely because those challenges are cloaked in constitutional terms.").

In this case, plaintiff has asserted various constitutional violations in connection with the administrative hearings, but has not alleged specific facts to support any bona fide claims for violations of any constitutional right which would permit him to circumvent FECA's limitation on judicial review.⁸ See e.g.,

⁸Moreover, § 1983 of Title 42 does not apply to actions of the federal government. With respect to any § 1985 claim, plaintiff has not set forth a cognizable claim. In order to state a § 1985 claim, plaintiff must allege that: (1) he was a member of a protected class; (2) the defendants conspired to deprive him of his constitutional (or federal law) rights; (3) the defendants acted with a class-based, invidious and discriminatory animus; and (4) plaintiff sustained damages as a result of the defendant's action. Griffin v. Breckenridge, 403 U.S. 88, 102-103 (1971); Romero-

Papanikolaou v. Administrator of Veterans Admin., 762 F.2d 8,9 (2nd Cir. 1985) ("...one may not circumvent [the statutory bar to judicial review] by seeking damages on a constitutional claim arising out of a denial of benefits"; citing Milliken v. Gleason, 332 F.2d 122 (1st Cir. 1964) cert. Denied, 379 US. 1002 (1965)). Although plaintiffs claim for benefits are 'cloaked in constitutional terms, merely affixing the constitutional label to a garden-variety claim for benefits does not overcome the bar of 5 U.S.C. § 8128(b). See Markham, 434 F.3d at 118; Stone v. Chao, 284 F.Supp. 2d 241, 246-47 (d. Mass. 2003) (D. Mass 2003) (Ponsor, J.) (Rehabilitation Act claims and various constitutional claims were barred by FECA provisions prohibiting judicial review of compensation decisions).

Similarly, as noted in the Memorandum and Order (#11) in CA. 05-11977-RWZ, this Court lacks jurisdiction to review plaintiff's claims under the FTCA or with respect to any vague claims of unfair labor practices.⁹

Barcelo v. Hernandez-Agosto, 75 F.3d 23, 24 (1st Cir. 1996). Apart from mere allegations of racial discrimination and involuntary servitude, there is nothing alleged to support a § 1985 claim. Similarly, to the extent plaintiff asserts a claim under 42 U.S.C. § 2000a-2 (which makes it unlawful to withhold or deny the "rights and privileges" of § 2000a-1, which provides equal access to places of public accommodation; and § 2000a-1, which prohibits discrimination or segregation by a state or state agency, plaintiff has not stated any facts alleging that he has been denied access to a place of public accommodation; and it is clear that plaintiff is not alleging misconduct by the state.

⁹Additionally, as noted in this Court's Memorandum and Order (#11) in C.A. 05-11977-RWZ, plaintiff's claims are clearly barred by the statute of limitations. A Complaint may be dismissed on statute of limitations grounds "only if" the pleader's allegations

III. Plaintiff's Claims Are Frivolous

Further, the Court finds plaintiffs claims, including his constitutional assertions under § 1983 and § 1985, and particularly his newly-asserted claim of involuntary servitude in connection with the FECA claim for benefits, to be factually without merit, wholly frivolous and, at this juncture, vexatious.¹⁰ Moreover, in view of the substantial administrative proceedings and court litigation history, it is clear that plaintiffs contentions of conspiracies and discrimination describe unreal situations and/or demonstrate a fixed ideation. Factual contentions which describe "fantastic or delusional scenarios" have been considered completely without merit under § 1915. See, e.g., Chambers v. Couturier, 1990 WL 121510 (E.D. Pa. 1990) (plaintiff's complaint alleging conspiracy to commit murder by inducing plaintiff, through telepathic waves, to hang himself, and that medication given him contains plaster or lime, considered frivolous under in forma pauperis statute, within meaning of Neitzke, 490 U.S. at 327-28 (citing Wilson v. Rackmill, 878 F.2d 772, 774 (3rd Cir. 1989)); Tyler v. Carter,

leave no doubt than an asserted claim is time-barred". Young v. Lepone, 305 F.3d 1, 8 (1st Cir. 202) (Quoting LaChapelle v. Berkshire Life Ins. Co., 142 F.3d 507, 509 (1st Cir. 1998)). The First Circuit has held that "a complaint which states a claim that appears to have expired under the applicable statute of limitations may be dismissed as frivolous: under the in forma pauperis statute. Johnson v. Rodriguez, 943 F.2d 104, 107 (1st Cir. 1991), cert. Denied, 112 S. Ct. 948 (1992) (quoting Street v. Vose, 936 F.2d 38, 39 (1st Cir. 1991), cert. Denied, 112 S. Ct. 948 (1992)).

¹⁰ Vexatious conduct occurs where a party's actions are frivolous, unreasonable or without foundation. Local 285 Service Employees Intern'l v. Nontuck Resources Assoc., Inc., 64 F.3d 734, 737 (1st Cir. 1995).

151 F.R.D. 537, 549 (S.D. N.Y. 1993) (“[a] plaintiff asserting fantastical or delusional claims should not, by payment of filing fee, obtain a license to consume limited judicial resources and put defendants to effort and expense” where the plaintiff asserted conspiracy to re-institute slavery, whispering campaigns).

Accordingly, in light of the above, and for the reasons previously set forth in the Memorandum and Order (#11) in C.A. 05-11977-RWZ, the Court dismisses this action, *sua sponte with prejudice*.

IV. Certification That Any Appeal Would Not Be Taken In Good Faith

Pursuant to 28 U.S.C. § 1915(A)(3) AND Fed. R. App. P. 24(a)(3), this Court finds, and hereby certifies, that any appeal taken by plaintiff of the dismissal action would not be taken in good faith, for the reasons set forth in this Memorandum and Order. Such a certification prohibits *in forma pauperis* status on appeal even though a plaintiff has been found to be indigent.

Under 28 U.S. C. § 1915(a)(3) “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” *Id.* Similarly, under Fed. R. App. P. 24(a)(3), a party who has been permitted to proceed *in pauperis* in the district court may proceed on appeal *in forma pauperis* without further authorization, unless the district court certifies that the appeal is not taken in good faith. *Id.* (emphasis added). Plaintiff may seek permission to appeal *in forma*’ from the Court of Appeals.

V. Warning That Plaintiff May Be Subject To Sanctions

Plaintiff is hereby warned that he may be enjoined from filing further actions in this Court absent permission from a district judge, and /or that he may be subject to monetary sanctions should he file any additional frivolous actions regarding his disputes concerning the award of FECA benefits arising out of his personal injury in 1964.

Under Rule 11, the Court may impose sanctions on an unrepresented party if he or she submits a pleading for an improper purpose or if the claims within it were frivolous or malicious. See Fed. R. Civ. P. 11(b)(1), (2)¹¹; Eagle Eye Fishing Corp. v.

¹¹ Rule 11 provides in pertinent part:

(b) Representations to Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, --

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extensions, modification, or reversal of existing law or the establishment of new law; (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity

Department of Commerce, 20 F.3d 503, 506 (1st Cir. 1994) (pro se parties, like all parties and counsel, are required to comply with the Federal Rules of Civil Procedure); Pronav Charter TL, Inc. v. Nolan, 206 F. Supp. 2d 46, 53 (D. Mass. 202) (Rule 11 applies to pro se litigants) (citation omitted). Rule 11 exists, in part, to protect defendants and the Court from wasteful, frivolous and harassing lawsuits, and provides for sanctions as a deterrent. See Navarro-Avala v. Nunez, 968 F.2d 1421, 1426 (1st Cir. 1992).

Additionally, a district court has the inherent power to manage its own proceedings and to control the conduct of litigants who appear before it through orders or the issuance of monetary sanctions for bad-faith, vexatious, wanton or oppressive behavior. See Chambers v. NASCO, Inc., 501 U.S. 32, 46-50 (1991); accord United States v. Kouri-Perez, 187 F.3d 1, 6-8 (1st Cir. 1999) (same); John's Insulation, Inc. v. L. Addison & Assocs. Inc., 156 F.3d 101, 190 (1st Cir 1998) (district court did not abuse its discretion in ordering dismissal of complaint and default judgment as a sanction for plaintiffs protracted delay and repeated violation of court's order under inherent powers rather than Rule 41).

Here, that plaintiff is not an attorney, and that he purports to suffer from psychological and emotional disorders does not immunize him from potential

for further investigation or discovery; (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

sanctions which for the repeated filing of legally deficient claims and the institution of frivolous and/or vexatious litigation. See Vasile v. Dean Witter Reynolds Inc., 29 F. Supp. 2d 465, 506 9E.D. N.Y. 1998) (litigations must be set to rest); cf. In re NASDAQ Market-makers Antitrust Litigation, 1987 F.R.D. 124, 131 9S.D. N.Y. 1999) (continued assertion of a factual or legal argument long after that argument has proven to be completely baseless is sanctionable conduct as is "the waste of judicial resources and resulting inefficiencies and delays that affect all actual and potential litigants in the federal courts.") (citations omitted); Patterson v. Aiken, 841 F.2d 386, 387 (11th Cir. 1988) (*pro se* litigant "has no license to harass others, clog the judicial machinery, with meritless litigation, and abuse already overloaded court dockets."). The time has now come for plaintiff to lay his 43 year claim to rest.

CONCLUSION

Based on the foregoing, it is hereby ORDERED that:

1. This action is DISMISSED in its entirety with prejudice;
2. Pursuant to 28 U.S.C. § 1915(A)(3) AND Fed. R. App. P. 24(a)(3), this Court finds, and hereby certifies, that any appeal taken by the plaintiff of the dismissal of this action would not be taken in good faith; and

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3. Plaintiff is warned he that further frivolous complaints may result in sanctions.

SO ORDERED.

/s/ Rya W.Zobel

RYA W.ZOBEL

UNITED STATES DISTRICT JUDGE

DATED: July 30, 2007

App 21

**UNITED STATES COURT OF APPEALS
For the First Circuit**

No. 07-2355

RANDOLPH E. GREEN,

Plaintiff, Appellant,

v.

UNITED STATES DEPARTMENT OF LABOR, ET

AL.,

Defendants, Appellees.

Before

Torruella, Circuit Judge,

Stahl, Senior Circuit Judge,
and Howard, Circuit Judge.

JUDGMENT

Entered: March 19, 2008

The district court denied plaintiffs motion for leave to proceed on appeal in forma pauperis ("IFP") after certifying that the appeal was "not taken in good faith." 28 U.S.C. §1915(A (3); see also Fed. R. App. P. 24 (a) (3). Plaintiff has now renewed his IFP motion in this court, see Fed. R. App. P. 24 (a) (5), and has also filed his appellate brief. In the IFP context, good faith is judged by an objective standard which asks whether plaintiff has advanced an issue that is "not frivolous." Coppedge v. United States, 369 U.S. 438, 445 (1962).

We have scrutinized the record and plaintiffs filings on appeal. Based on our review thereof, we agree, largely for the reasons stated in the district court's opinion, that he has not raised a non-frivolous issue. We simply mention three points in response to plaintiffs arguments on appeal. First, a district court is entitled to screen, and if appropriate dismiss, an IFP complaint prior to issuance of summons. See 28 U.S.C. § 1915 (e) (2) (permitting dismissal of defective IFP filing "at any time"); see, e.g., Powell v. Jacor Communications Corp., 320 F.3d 599, 601 (6th Cir. 2003) (noting that "no summons was issued" at time IFP complaint was filed because of 1915 (e) (2)'s "screening process"). Second, the reassignment of the case from one district judge to another was plainly warranted (despite the court's inadvertent citation to the wrong local rule).

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See D. Mass. Loc. R. 40.1 (G). And third, the court's mention of "telepathic waves" did not refer to plaintiffs complaint, but rather involved a parenthetical description of an unrelated case applying the "frivolousness" standard.

We conclude that there was neither error of law nor abuse of discretion in the district court's IFP determination. The motion filed in this court for leave to proceed on appeal IFP is denied, and the appeal is dismissed. See 1st Cir. Loc. R. 27.0(c).

By the Court:

Certified and Issued as Mandate

Richard Cushing Donovan, Clerk.

Under Fed. R. App. P. 41.

Richard Cushing Donovan, Clerk

	By: <u>Margaret Carter</u> _____
Deputy Clerk	Chief Deputy Clerk.

Date: 7-8-08

[cc: Randolph E. Green]

App 24

**United States Court of Appeals
For the First Circuit**

No. 07-2355

RANDOLPH E. GREEN

Plaintiff, Appellant

v.

UNITED STATES DEPARTMENT OF LABOR, ET AL.

Defendants, Appellees

**Lynch, Chief Judge,
Torruella, Circuit Judge,
Boudin, Circuit Judge,
Stahl, Senior Circuit Judge,
Lipez and Howard, Circuit Judges.**

ORDER OF COURT

Entered: June 20, 2008

The panel of judges that rendered the decision in this case having voted to deny the petition for rehearing, and a majority of the judges in regular active service not having voted to order that the appeal be reheard en banc, it is ordered that the petition for rehearing and the suggestion for rehearing en banc be denied.

By the Court:

/s/ Richard Cushing Donovan, Clerk

The Established Criteria of Medical
App 25 through 67

7/1/1964: Patient alleges he struck his right elbow on a hard surface on 4-9-1964 and had a "shooting pain" down the arm (felt like struck the funny bone) – since that time, he has had recurrent pain about the elbow but not always in the same site. No true weakness but general aching about the elbow at night usually. No numbness but occasionally "shooting pain".

Physical examination: Contour elbow, O.K., right. Good upper and lower arm strength, right, O.K. No evidence of loss of strength, muscle, of the hand and no ulna median or radial loss in the hand or forearm. No olecranon bursa appreciated. Minimal nondescript tenderness to percussion about the elbow.

Impression: Causalgia, right elbow and forearm (proximal)

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Disposition: FIT FOR LIGHT DUTY. Whirlpool.
Return to clinic in two weeks.

Doctors Visits

11/06/64
07/23/64
07/30/64
08 /07/64
08/12/64
07/01/64
07/02/64
07/07/64
07/08/64
07/09/64
07/13/64
07/14/64
07/15/64
08/20/64
08/31/64
09/01/64
09/22/64
09/28/64
10/21/64
11/03/64
11/02/64
11/06/64
11/09/64
11/12/64
11/19/64
12/03/64

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12/16/64

**CLINICAL RECORD
CONSULTATION SHEET**

To: United States Public Health Service Hospital,
Brighton From: Watertown Arsenal, Watertown, MA 6
Nov, 1964

Reason for request (Complaints and findings)

Green, Randolph E., 17706 contusions. - right elbow -
8 April 1964. This man still complains of being unable
to do regular duty. In my judgment he should be on
regular duty, however, I am sending him to you for
advice and re-evaluation.

11/6/64 - Surgical Clinic: Patient still complains
of pain in right elbow. Since last visit patient has been
seen by family physician, orthopedist, and neurologist.
Now referred for re-evaluation.

Examination reveals no abnormalities. Full
range of motion, -right elbow with no deformity. No
muscle atrophy of arm, forearm or hand. Impression:
Deferred. No objective evidence of disease at this time.
Disposition: X-ray of right elbow, fit for light duty,
return to orthopedic consultant on 11/12/64.

On 11/12/64 was rescheduled for consult and
again fit for light duty, for visit on 11/19/64. On

11/19/64 patient again rescheduled for 12/3/64 and was on light duty.

12/3/64-Dr. Ulin's consultation: History taken by Dr. Ulin as above. In addition patient states vibration, nervousness, defecation also causes the pain in the arm. Examination is entirely negative. Patient has total hypoesthesia of the arm. No orthopedic pathology. Fit for full duty.

Patient returned to Orthopedic Clinic on 12/16/64 and was still having some symptom. Requestioning reveals that this patient is required in his usual job to work with a vibrating hammer xx machine. This is definitely contra-indicated in this case. Fit for light duty--no vibrating hammer (Pallet Gun) under any circumstances. No lifting over 20lbs. No vibrating machine of any kind. Return to clinic on 1/13/65.

Clinical Record

Consultation

To Dr. Ulin

From: Surgical Service

Date of request 12/3/64

This man complains of pain in the right arm and mild discomfort from the elbow distally. He complains of an occasional "dead feeling". The pain is said to be related to activity but although he says that it does interfere in some way with his work, it is not a severe complaint. He has been seen by many examiners

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previously and no diagnosis of orthopedic pathology has been made.

Physical Examination of objective findings is entirely negative. There is normal motion, a strong grasp, and no muscle atrophy. He does complain of hypoesthesia over the entire right arm below the elbow following no pattern, in a "stocking hypoesthesia" distribution.

I find no demonstrable orthopedic pathology in this patient.

Sept. 27, 1966

Mr. Marcel Kistin
6 Beacon Street
Boston, Mass.

Re: Randolph Green

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Therapy: Physic-therapy, Analgesics for pain, Immobilization.

Disability

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Office Visits: April 8, 1964 First Aid	\$15.00
April 15, 21, 28	
May 5, 12, 22, 26	
June 5, 9, 16, 30	
July 7, 14, 17, 24	
Aug, 4, 7, 11, 15, 22, 30	\$105.00
Total	\$120.00

Very truly yours,

A. P. Bloomenthal M.D.

Feb. 3, 1967

Mr. Marcel Kistin
6 Beacon Street
Boston, Mass.

Re: Randolph Green

Dear Sir:

Following is a medical report of above named patient, injured in the performance of his duties on April 8, 1964.

Diagnosis: Right traumatic ulna neuritis.

Emotional Trauma Aggravated by injury to right ulna.

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Therapy: Analgesics for pain, Physic-therapy,
Immobilization, Valium 5mg. Entered V.A. Hospital
9/30-11/19/65

Disability Total 4/8/64-3/9/66

Partial Continuing

Office Visits: April 8, 1964 First Aid \$15.00

1964 April 15, 21, 28
 May 5, 12, 22, 26
 June 5, 9, 16, 30
 July 7, 14, 17, 24
 Aug. 4, 7, 11, 15, 22, 30
 Sept. 6, 20,
 Oct. 4, 19,
 Nov. 2, 16
 Dec. 11, 22

1965 Jan. 12, 26
 Feb. 2, 16,
 Mar. 7, 1,
 Apr. 17, 28,
 May. 9, 19,
 June 12, 22,
 July 10, 21
 Aug. 8, 22,
 Sept. 6, 19, 26

\$240.00

\$255.00

A.P. Bloomenthal
5 Bank Street
Waltham, MA

Nov. 6, 1969

To Whom It May Concern:

Mr. Randolph Green has been under my care since Feb. 2, 1965 for Anxiety and Depression. He was admitted to the V.A. Hospital on 9/30/65 and discharged on 11/19/65.

Previous to that time he was under treatment for right traumatic ulna neuritis aggravated by an injury to the right Ulna.

He was released from treatment at the V.A. Hospital on Mar. 9, 1966 to my care, and up to the present time he is under continuing therapy.

For any further information, feel free to call my office.

Donald I. Campbell, M.D.
Edwin W. Guiney, M.D.
66 South Street
Waltham, Mass. 02154
Telephone 894-2096

December 21, 1964

To Whom It May Concern:

Re: Randolph Green

I saw Mr. Green for the second time on December 10, 1964, with no real change in his symptomatology. He is still having a cosalgic type of pain beginning in his right elbow, radiating into the wrist, hand, and fingers. This pain is aggravated by heavy repetitive work otherwise he finds that he is able to do his regular job quite satisfactorily.

His main complaint was that his pain was aggravated by using some sort of a riveting or cir-type of gun, which caused a jarring of his hand, wrist, and forearm. This seemed to aggravate his pain. I would think that if this type of work could be avoided, he should be continued in his regular job as we know that the symptoms that this man has, generally improve with time, though it may take many months.

If I can be of any further assistance in this matter, please let me know.

Respectfully yours,
Edwin W. Guiney, M.D.

Ronald I. Campbell, M.D.
Edwin W. Guiney, M.D.
66 South Street
Waltham, Mass. 02154
894-2096

A.P. Bloomenthal, M.D.

Re: Randolph Green
5 Banks Street
Employer: Watertown Arsenal
Waltham, Massachusetts
Age: 42 B.D. 11/13/21

Dear Doctor Bloomenthal:

I saw the above named patient in the Emergency Room of the Waltham Hospital today, with a history of having struck his right elbow on a metal corner while at work on April 8, 1964. Immediately following the injury, he had considerable pain and swelling throughout the whole of his elbow joint. He was treated with warm soaks at work. The immediate pain around the elbow gradually seemed to subside but he began to develop increasing pain with activity particularly with squeezing his fist, resting on his elbow or trying to reach above his head and turn anything. The pain has become progressively worse around the elbow, down the forearm with a sensation of numbness and weakness in the hand. He feels that this may have started on the ulnar side of his hand and has no spread toward the thumb, second and 8third finger. He also notes cramping in the forearm wrist and fingers when the hand is at rest. He had been treated at the Brighton Marine with physiotherapy with no improvement in his symptomatology.

On physical examination there is no atrophy of this arm. He has a full range of elbow motion, a full range of wrist motion, though his fingers do not seem to extend quite as far on this side as they do on the other, however, this is right hand. He has full pronation, full supination. He has vague sensory loss throughout the whole hand, forearm, and distal upper arm, which follows no neurological pattern. He has no real motor weakness, though the right hand in grasp seems to be just slightly weaker than the left, even though he is right-handed. His reflexes are normal. Blood pressure in both arms is the same; pulses seem to be the same.

IMPRESSION:

I feel that this man is developing a cosalgia of his right arm and that there is no orthopedic problem present at this time. His x-rays were reviewed and they were also found to be negative. Therefore, I feel that he should be seen by a neurologist.

Jordan Joseph, M.D.
Neurology
21 Prospect St.
Waltham, MA 02154

August 24, 1964

A.P. Bloomenthal, M.D.
5 Banks Street
Waltham, Massachusetts

RE: Randolph E. Green
8 Woodbine Street
Roxbury, Mass

Dear Dr. Bloomenthal:

I saw your patient, Randolph Green, in the office for the first time on August 21, 1964. He is a 42 year old Negro male who complains of pain in his right arm following an injury to the elbow on April 8, 1964. On that date while at work at the Watertown Arsenal, he traumatized his elbow against a metal object. Following the trauma he had pain issuing from the elbow, down the inner aspect of his arm and into the fourth and fifth fingers. Since that time the pain has waxed and waned to a certain extent, tends to appear at any time, occasionally awakens the patient from sleep, and it is of an extremely intense, deep, and aching nature. It is also notable that although the pain may occur at any time, active use of the arm tends to exacerbate the pain. The pain, which initially involved the inner aspect of the arm, seems now on occasion to involve the entire forearm. He was seen by Dr. Guiney who reviewed his x-rays and found no orthopedic problem present.

On examination no neurological difficulties were noted except those related to his right arm. It is noted that the right ulnar nerve is quite tender to palpations and one can easily induce the type of pain of which he complains. When similar manipulation of the left ulnar nerve is performed paresthesias appear but are not of

the intensity of those seen on the right. Reflexes in the right arm, biceps, triceps, and brachialradialis, appear within normal limits. It is difficult to determine sensory loss to pin prick, but that a distinct loss to pin prick over the ulnar side of the right hand was obtained. This has to be rechecked. Distinct wasting of small musculature of hand or weakness was not noted on this occasion, but he is reluctant to use the right hand. The left hand seems slightly more moist than the right, but this observation needs to be rechecked and the patient himself shall observe difference in degrees of sweating. It is notable

Impression: Right ulnar neuritis related to trauma.

Recommendation: I would consider conservative therapy most important at this time. I suggested to Mr. Green that he maintain his right arm in a splint for a week or two, and that we observe the results of this treatment. He is also to passively exercise his right hand and arm to prevent stiffening three times a day and to soak it two to three times a day in warm water.

I also suggested that he take aspirin for pain. I plan to see Mr. Green again in two weeks.

Thank you for referring Mr. Green.

Jordan Joseph, M.D.
Neurology
21 Prospect St.
Waltham, MA
Tel. RE4-7840

September 25, 1964

Re: Randolph Green
Dispensary
Watertown Arsenal
Watertown, Massachusetts

Dear Sir:

I saw Mr. Green on August 21, 1964 and on September 3, 1964 in relation to an injury received at the Watertown Arsenal. At the request of Mr. Green, I am sending you my opinion. I found Mr. Green to have an ulnar neuritis on the right related to trauma to the ulnar nerve at the elbow. Since continued activity of right arm seems to aggravate his symptoms, I suggested that the activity he partakes in be diminished. I believe that the prognosis in this situation is good, but there are suggestions of causalgic type pain, and also the possibility of the development of a tardy paralysis.

Mr. Green seems to be a fairly solid man and I suspect the pain of which he is complaining is quite genuine. I believe he should be watched further until abatement of symptoms is quite distinct. The possibility of a neurolysis should be kept in mind should his symptoms worsen. As his symptoms decrease a program of gradually increasing activity of the right arm should be undertaken. I have currently advised sufficient activity of the right arm to avoid any disuse complications.

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If you desire any further information from me, I shall be only too happy to forward it to you.

Sincerely yours,

Jordan Joseph, M.D.

Jordan Joseph, M.D.
Neurology
21 Prospect St.
Waltham, Mass.
Tel. Re4-7840

A.P. Bloomenthal, M.D.
5 Banks St.
Waltham, Mass.

Dear Dr. Bloomenthal,

I again saw your patient, Randolph Green, on September 3, 1964. He states that since keeping his arm in a sling, minimal improvement has occurred. Findings today are similar to those of August 24, in that a diffuse diminution to pin prick is present over the right forearm and hand. Today it seems as if the right hand is sweating more than the left.

No diminution in strength is noted. The only disturbing new feature is that the patient now recollects that, superficial stimuli occasionally evoke a

severely painful response and, on one occasion in the past two weeks this was noted. The implication of this is that a causalgic syndrome might be developing and on this basis I shall continue to stay in contact with the patient.

He has other complaints, such as cramps in his feet, which I do not believe, are of significance. I have drawn a blood Wasserman on the patient.

Impression: Right ulna neuritis, possibly slightly improving.

Recommendation: To continue with passive exercises and sling, if this continues to prove helpful. I am planning to see him again in about one month.

Jordan Joseph, M.D.
Neurology
21 Prospect St.
Waltham, MA.
October 6, 1964

Re: Randolph Green

A.P. Bloomenthal, M.D.
5 Bank Street
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I again saw Randolph Green on Friday, October 2, 1964. Since last seen, Mr. Green has noted

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continuous improvement in the function of his right hand and has been noting less and less pain. Examination today: There is slight diminution to pin prick on the ulna side of the right hand and no evidence of atrophy is noted. Previously noted suggestions of causalgic pain have not recurred.

Impression: Right traumatic ulna neuritis improving.

Recommendations: I suggested to Mr. Green that he gradually increase the use of his right arm as the pain subsides, but should not use his right arm to the degree that recurrent pain is noted. I suggested to Mr. Green that he let me know in the future should his symptoms become worse and that I would like to see him in any case again in three or four months to be certain at that time no evidence of ulna nerve damage is present.

Thank you for referring Mr. Green.

Jordan Joseph, M.D.
Neurology
21 Prospect St.
Waltham, Mass.

March 24, 1965

Re: Randolph Green
8 Woodbine Street
Roxbury, MA. 02119

A.P. Bloomenthal, M.D.
5 Bank Street
Waltham, Massachusetts

Dear Dr. Bloomenthal,

I saw Mr. Randolph Green in the office on March 18 and on March 23, 1965, for further evaluation. Apparently Mr. Green resigned his job at the Arsenal on February 2, 1965. He apparently resigned because he felt that he was being mistreated there.

He feels that they made him use his right arm more than necessary; he feels that on occasion acid was spilled on him, not accidentally, and he feels that they used various techniques to purposely aggravate him. How much is true in his thinking about this matter, and how much is related to his paranoid feeling about the Arsenal is difficult to be certain of.

When his wife came to the office on March 23, 1965, she feels that there has been no significant personality change, except during the past month or so he has possibly been a little more depressed than usual. She does not note any distinct memory changes in his behavior.

On looking into his mental situation a bit, he is found to have a vocabulary score compatible with an I.Q. of around 75. The Wechsler Memory Scale reveals a memory quotient consistent with an I.Q. of approximately 80. The only disturbing feature noted is a rather severe difficulty with drawings. On the Benton Visual retention Test he again reveals approximately 80. It is also to be noted that he has had a fourth grade

education in the South and he was discharged from the Army after 8 months service for unknown reasons. On physical examination today there is slight tenderness over the ulnar nerve at the elbow on the right, but no other significant findings.

Impression: This is a very simple man who, on mental testing, reveals signs slightly suggestive of a cerebral degenerative process. His basic intelligence, however, is so low that it is impossible to be in any way certain of this. Psychologically he is somewhat paranoid about the Arsenal, but not too psychotic proportions.

Recommendations: I suggested to this man that the healthiest thing he could do is find a way to keep himself busy by working. I have not written the Veterans Bureau about him, as he feels that he would prefer that you handle this situation.

NARRATIVE SUMMARY

DIAGNOSIS: Schizophrenic Reaction, Schizophrenic Reaction, Schizo-Affective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission.

EXTERNAL PRECIPITATION STRESS:
Injury at work.

PREDISPOSITION: Undetermined.

DEGREE OF INCAPACITY: Modesto.

COMPUTENCY: COMPETENT.

H. Markey, M.D.
Ward Physician

Stephen W. Meagher, M.D.
520 Commonwealth Avenue
Boston, Mass. 02215

Attorney Marcel Kistin
Six Beacon Street
Boston, Massachusetts

Re: Randolph E. Green
8 Woodbine Street
Roxbury, Massachusetts

Vs.

Watertown Arsenal
Watertown, Massachusetts
Date of Injury: April 8, 1964 Age: 44 Years

Date of this Examination; November 26, 1965

Dear Mr. Kistin:

Mr. Randolph E. Green sustained an injury to his right elbow when he struck the elbow against a steel table at work on April 8, 1964. At that time and thereafter, he experienced electric shocks from the elbow to the hand and wrist and received treatment at the Watertown Arsenal clinic and at the Brighton marine Hospital.

The treatment consisted principally of whirlpool and other forms of physiotherapy. He has been unable to work since February 2, 1965.

At the present time, his complaints are:

Pain in the right arm especially in the region of the elbow with pain radiating to the fingers of the hand

Impairment of motor power in grasping

Sensitivity to cold

Some numbness on the back of the hand

Examination

Examination reveals that the right major hand is intact. There is a loss of one and one-half inches of abduction of the fingers of the right hand during fanning as compared to the left hand. The right hand exerts a force of zero pounds as compared to 160 pounds for the left hand. There is some dullness of sensation over the back of the hand.

Skin temperatures at this time are as follows:

	Right	Left
Thumb	74.75	74.75
Index	74.75	74.75
Middle	74.75	78.75
Ring	75.50	74.75
Small	77.50	74.50

(Variation greater than 1.00 f. in identical points of opposite hands in significant.)

X-rays reveal some calcification in the soft tissues in the region of the ulnar nerve and a bony exostosis opposite the olecranon process.

Opinion

Mr. Green sustained a crush injury to the ulnar nerve of the right arm at this time of his injury when he struck the right elbow on April 8, 1964.

Subsequently, he has had symptoms of nerve injury in that he has had partial atrophy of the intrinsic muscles of the hand as evidenced by the impairment of abduction of the fingers during fanning, impairment of motor power, slight numbness on the back of the hand and tenderness in the region of the ulnar nerve and posterior elbow.

Mr. Green has reached an end result from active treatment. He has a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand is slight due to atrophy of muscles.

Stephen W. Meagher, M.D.
520 Commonwealth Avenue
Boston, Mass 02215

September 30, 1966

Attorney Marcel S. Kistin
Six Beacon Street

Boston, Massachusetts

Re: Randolph E. Green
8 Woodbine Street
Roxbury, Mass

Vs.

Watertown Arsenal
Watertown, Massachusetts

Date of Injury: April 8, 1964

Date of this Examination: September 27, 1966

Dear Mr. Kistin:

As you know, Mr. Randolph Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a steel table.

Up to the present time, he has continued to experience electric shocks when turning the elbow in certain positions with radiation of the shocks down the arm. He has cramps in the region of the wrist at times and in the fingers with aching especially in the small finger. Sensitivity to cold is also present in the elbow and hand.

Examination

Examination reveals that the right hand exerts a force of 40 pounds as compared to 260 pounds for the left minor hand. There is some dullness of sensation

over the ulnar nerve aspect of the right hand. All joints appear to move through a normal range of motion. There is tenderness on each side of the olecranon at the right elbow. There is now a loss of three-quarters of one inch of abduction of the fingers during fanning in the right hand as compared to the left hand.

Opinion

Since my last report, there has been no substantial change in the condition of Mr. Green's right hand and arm. I see no reason to alter my opinion as to his loss of function and disfigurement as previously stated. Following my original examination, I felt that Mr. Green had a loss of function of 20% in the right elbow and 30% in the right hand as a hand. Disfigurement of the hand was slight due to atrophy of muscles.

Stephen W. Meagher, M.D.
520 Commonwealth Avenue
Boston, Mass 02215

February 14, 1967

Attorney Marcel S. Kistin
Six Beacon Street
Boston, Massachusetts

Re: Randolph E. Green

Roxbury, Mass vs. Watertown Arsenal

Date of Injury: April 8, 1964

Date of this Examination: February 3, 1967

Dear Mr. Kistin:

As you know, Mr. Green sustained an injury to his right elbow at work on April 8, 1964 when the elbow was struck against a table. As a result of this injury to the arm and the ulnar nerve, he has the following complaints at this time:

1. A feeling of looseness in the elbow
2. Numbness in the small and ring fingers of the right hand
3. Sensitivity to cold
4. Stiffness in the elbow at times
5. Marked impairment in the power of grasping in the right hand
6. Pain in the region of the olecranon Process radiating down to the wrist and fingers
7. Aching in the arm and hand
8. Muscle cramps in the hand when he attempts to use it for any length of time
9. Tenderness over the inner part of the right elbow

Examination

Mr. Green has an intact right arm and hand. The right major hand exerts a force of 60 pounds as compared to a force of 330 pounds in the left hand.

There is a loss of three-quarters of one inch of fanning of the fingers of the right hand during abduction of the fingers as compared to the normal left hand. There is dullness of sensation over the ulnar nerve distribution of the right hand. Tenderness is present on palpation over both sides of the olecranon and especially over the medial condyle of the elbow.

X-rays, which were previously taken, reveal the presence of calcification in the tissues in the region of the ulnar nerve at the right elbow. In addition, a bony exostosis opposite the olecranon process was also seen.

All of the joints in the extremity move through a normal range of motion. Grossly, there is slight atrophy of the intrinsic muscles of the hand.

Opinion

Mr. Green sustained a serious closed type of injury to the ulnar nerve in the region of the right elbow at work on April 8, 1964 which has caused a marked impairment in the power of grasping in the major right hand as well as marked limitation of manipulative ability of the hand for a prolonged period because of the presence of cramping of the intrinsic muscles when he attempts to perform manipulative movements over a period of any duration. The sensory deficit in his hand is permanent since it would have returned to normal before now if it was going to do so; it is now approximately three years since his injury. The impairment in

the loss of fanning of the fingers of the right hand is due to atrophy of the intrinsic muscles, which

are responsible for this motion. Tenderness in the elbow has been persistent up to the present time and I believe that this is permanent.

Sensitivity to cold is fairly marked during the colder months of the year. The weakness in the hand and the power of grasping and the sensitivity to cold and the feeling of stiffness at times is due to the presence of reflex vasospasm as a result of the injury to the ulnar nerve. This aspect of his problem is permanent.

On the basis of the foregoing findings, it is my opinion that he has the following loss of function.

Disability

There is a loss of function of 35% in the right upper extremity as an extremity. There is slight disfigurement of the hand due to some atrophy. An end result from active treatment has been reached.

Stephen W. Meagher, M.D.
520 Commonwealth Avenue
Boston, MA 02215

August 12, 1974

Mr. Randolph E. green
8 Woodbine Street
Roxbury, MA

Re: Randolph E. Green
8 Woodbine Street
Roxbury, MA

Vs.

Watertown Arsenal

Date of Injury: April 8, 1964 Age 53
Years

Date of this Consultation: August 6, 1974

Dear Mr. Green:

As you know, you came in to see me in my office on August 6, 1974, in relation to the **chronic problems** that you have had with your right upper extremity since the accident of April 8, 1964.

You have copies of my previous reports, most especially, the copy of November 20, 1965, when I first examined you and found that you had evidence of post-traumatic vasospasm as proven by abnormal skin temperatures and calcification in the region of the ulnar nerve at the right elbow at the site of injury by x-ray. In this examination, you stated that you continue to have easy fatigability of the arm with aching in the region of the elbow at the site of injury on the dorsal aspect of the elbow, and the dropping of objects at times with weakness of grasp, discomfort, and dullness of feeling in the right hand and arm.

Examination

Examination reveals that the right major hand and arm are intact. The right hand has a grasp of only

70 pounds compared to 330 pounds in the left minor hand. There is a loss of one inch of fanning of the fingers of the right hand compared to those of the left hand on the basis of intrinsic muscle atrophy.

There is diminished sensory acuity in the right hand and arm in response to pin prick up to the level of the elbow, most especially marked in the ulnar nerve distribution. There is a pigmented are that measures one and one-half inches by one inch over the dorsal elbow. There is a full range of motion of the small joints of the hand, wrist, and elbow.

Opinion

You have definitely reached an end result from active treatment for the injury sustained to your right upper extremity, at work, on April 8, 1964. You will not require further active treatment for this complaint in my opinion.

You will permanently be unable to perform the duties that you were doing at the time of the injury. You cannot perform any heavy work or rapid manipulative work with the right upper extremity.

Disability

There is a loss of function of 20% in the right elbow, and 30% in the right major hand as a hand. There is an overall loss of function of 40% in the right upper extremity as an extremity. Disfigurement of the hand is slight. Disfigurement of the elbow is slight. An end result has been reached.

STATEMENT OF ACCEPTED FACTS IN CASE
NO. A1-42911

RANDOLPH E. GREEN

The Bureau accepts as factual that Randolph E. Green, born 11/13/21, sustained a contusion of the right elbow as the result of striking his right elbow against the leg of a table at work on 4/8/64; that he resigned 2/2/65 because disability related to injury of 4/8/64 was being aggravated by working; that from 9/30/65 to 11/19/65 he was a patient at the VA Hospital, Bedford.

Diagnosis: Schizophrenic Reaction, Schizo Affective Type, manifested by withdrawal, depression, and some paranoid thinking, in partial remission, and that the external precipitating stress was injury of 4/8/64.

T.J. Connelly
Claims Examiner

Bureau of Employees: Compensation

In the matter of the claim for compensation under the Federal Employees; Compensation Act of

Randolph E. Green

Claimant

Employed by: Department of the
Watertown Arsenal
Watertown, MA

Apr 55

Compensation Order
Award of Compensation
Case No: A1-42911

Such investigation in respect to the above-entitled claim having been made as is considered necessary, and after due consideration of such claim and reports of record, the Bureau makes the following:

FINIDING OF FACT

That on April 8, 1964 the claimant above-names while in the employ of the employing establishment above-names sustained personal injury in the performance of duty which resulted in permanent partial loss of use of right arm that timely notice of injury and claim for compensation were respectively given and filed; that the monthly pay as determined pursuant to Section 12 of the Federal Employees' Compensation Act is the equivalent of \$133.00 per week; plus 12.5% effective October 1, 1966 under Section 13, PL 89-488.

That as a result of such injury the claimant has permanent disability equivalent to 20% permanent partial loss of use of right arm that the claimant is entitled to augmented compensation for dependents; that for such permanent disability and pursuant to Section 5 of the Federal Employees' compensation Act the claimant is entitled to 62.40 weeks' compensation at the rate of \$100.20 per week for the period November 26, 1965 to September 30, 1966, and \$112.69 per week for the period to October 1, 1966 to February 5, 1967, fraction of a day, inclusive.

Upon the foregoing findings of fact it is ORDERED that there shall be paid from the Employees' Compensation Fund the following

AWARD

Accrued compensation as follows: The sum of \$6,097.36 covering the period November 26, 1965 to January 12, 1967, inclusive; then the sum of \$383.15 for the period January 13, 1967 to February 5, 1967 fraction of a day, inclusive. Total award \$6480.51.

Given under my hand at Boston, Massachusetts this 18th day of January 1967.

Thomas A. Tinsley, Director
Bureau of Employees' Compensation
By: C.L. Hevde

8 Woodbine Street
Roxbury, MA

February 8, 1967

Marcel L Kistin
Beacon Street
Boston, MA

I disagree with the total award in the amount of \$6480.51. I will hold checks due to the fact that there are more fees to be claimed.

Signature: Randolph E. Green

P. Stefan Krause, M.D.
2000 Washington Street
Newton Lower Falls, MA 02162

A.P. Bloomenthal, M.D.
5 Bank Street
Waltham, MA

RE: RANDOLPH E. GREEN
8 Woodbine Street
Roxbury, MA

Dear Doctor Bloomenthal:

In answer to your request of May first, I would like to inform you that I saw Mr. Green on February 25, 1970 in psychiatric evaluation. He gave a history of being hospitalized at the Bedford Veterans Administration Hospital in 1965. Patient has a 4th grade education.

Patient arrived with a suitcase full of documents referring to his alleged injury and the results of it. In essence, this is all he wanted to discuss. He also stated that he was hospitalized for 2 months, and was on Haldol, 1/2mg., t.i.d. He felt that his condition was induced on purpose by his employer, that they did not give him light work as was indicated but reassigned him to his regular job as an electrical heliarc welder, using an air pressure gun and Dallett gun. He also felt that this company returned him to regular duty to

"worsen his condition" and that "they wanted to see me in a condition that would drive me out of my mind".

He also brought up the point that this was due to discrimination. He said that his mind was affected to the point where he felt that people were after him and watching him. He said that he felt depressed, had insomnia, and felt like walking through a wall.

My diagnosis of this patient is schizophrenic reaction, paranoid type with depression. My recommendation was that he be hospitalized and given a course of electric shock treatments, which I felt might be beneficial to him, in view of his depression and the paranoid elements of his psychosis.

I saw Mr. Green at a later date with his wife who works as a psychiatric aide at the Veterans Hospital at Jamaica Plain and who said that she felt qualified to oppose the recommendation of the electric shock treatments.

I have not heard from them since that time.

Dr. Daniel M. Weiss, Inc.
Newton-Wellesley Hospital Medical Office Building
2000 Washington Street
Newton Lower Falls, MA 02162

July 9, 1979

Paul S. Horovitz, Esq.
Horovitz, Gordon & Robbins

Six Beacon Street
Boston, MA 02108

Dear Mr. Horovitz:

Re: Randolph E. Green

This will confirm the fact that I have examined your client in extended interviews. These took place on 24 May 1979, 6 June and 14 June 1979. He is a fifty- seven year old, black, married, protestant male who states that he was in Ms usual state of good health until he was injured at the Watertown Arsenal on 8 April 1964. He has been almost totally unable to work since that time. He was a welder then and he apparently Mt his right elbow somehow on a corner of a steel table and his ulnar nerve was injured. He apparently was paid weekly benefits and was then given a 20% award for loss of function of the right arm on 18, January 1967. However, I am told by him that he refused this, saying that the Board was not made aware of his psychiatric history at the time, nor were they aware of Ms continuing psychiatric problems.

He was born in Tuskegee, Alabama and there were four brothers and two sisters in all. He was the youngest of this group. Both of his sisters are now dead. His mother died in 1972 at age ninety-one and his father died many years ago.

He was in the CCC at age eighteen and then came to Boston in 1942. He joined the 9th Cavalry Division during World War II, but never served overseas and was in the Service only for a total of eight months. We are not sure of the manner of his

discharge, but he never received a pension for this. He remained in the Boston area as a welder. I am told that he had only four grades of school, but on the other hand it does appear that his intellect is far above a fourth grade level. He has worked for the Federal Government for a total of about twenty years at the time when he was forced to leave work because of the injury and had worked at the Watertown Arsenal for fifteen years. He gave up his job in February, 1965 having attempted to work after the injury, but having found that he could not stand the light duty that was involved.

He was seen by Jordan Joseph, M.D., a neurologist, who apparently felt that he was of low intellectual quotient of approximately 80 and he found some paranoid thoughts and ideation present in this man. He was admitted to the Bedford Veterans Administration Hospital in September 1965 and discharged two months later to his MD.

Dr. Bloomenthal. In his hospitalization it was noted that he had become withdrawn and depressed subsequent to his having left his work and that he had left his work because it was not possible for him to continue and that this was secondary to an injury which he had sustained while at work. He was given phenothiazine medication and a discharge diagnosis was made of schizophrenic reaction, schizo-affective type. However, it does not appear to me that he was not followed up after his discharge by psychiatrists and he has instead continued to see Dr. Bloomenthal from time to time and on occasion was seen again back at the Bedford V.A. Hospital Outpatient Department.

He has stated to me that he continues to get medication and I checked with Dr. Bloomenthal about that. It appears that he gets Vitamin B injections, perhaps twice monthly, and Triovil only when necessary.

He was also seen by Dr. Stefan Kraus on 15 May 1970. Dr. Kraus recommended very strongly that he be given the benefit of electro shock treatments and confirmed the diagnosis of schizophrenic reaction. He was also seen by Dr. Charles Pinderhughes who felt that here was a chronic relatively well compensated psychotic condition with paranoid symptoms and he felt that this was a chronic state secondary to the accident itself. This examination was done on 31 July 1970.

He married in 1942 to a woman one year younger than himself and this marriage is still in existence. There are eleven children from this marriage. The oldest is thirty-five and the youngest is now fourteen.

The symptomatology includes the fact that he has become rather seclusive at home, argumentative and continues to be somewhat paranoid. He has not been able to work, but has become very litigious and in fact he has entered suits in his own behalf against various people, including some who have been attempting to help him. He is constantly concerned that people are going to get the better of him and he as a matter of fact tells me that before he finally had to leave work he was deliberately sprayed with acid in the plating shop at the Watertown Arsenal and that this also served to cause him to become disabled. He denies it at this time, but says that formerly he did have

delusions and hallucinations and at various times has been treated with Haldol, Stelazine, and other phenothiazine medications. I myself recommended Daxolin to him.

It would appear that this man was injured while at work and that this claim of injury has been documented elsewhere and that this injury took place on 8 April 1964, some fifteen years ago. It further appears that he had become schizophrenic subsequent to that injury and various examinations by psychiatrists have concluded that the schizophrenic condition was a result of the physical injury, which he had sustained and which has been previously mentioned.

It is fairly well documented also that he continues to be so afflicted and that he continues to be, therefore, unable to work because of his suspiciousness, irritability, and preoccupation with his condition and inability to get along with people. In my opinion this man suffers from a schizoaffective reaction with paranoid symptomatology in a relatively inactive state at this time. This is a chronic condition and it is secondary to and casually related to the accident as mentioned above.

The prognosis is very poor.

He should continue, of course, to be under the care of a psychiatrist or an outpatient clinic such as the Bedford V.A. Hospital Clinic, which knows him, rather well.

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As you know the American Board of Psychiatry and Neurology certify me as a psychiatrist.

**U.S. DEPARTMENT OF LABOR
OFFICE OF WORKER'S COMPENSATION
PROGRAMS**

In the matter of the claim for compensation under Title 5, US Code 8101 et seq., of

CLAIMANT: Randolph E. Green

EMPLOYED BY: Department of the Army

**COMPENSATION ORDER
REJECTION OF CLAIM
CASE NO; A1-042911**

Such investigation in respect to the above-entitled claim having been made as considered necessary, and after due consideration of such claim and reports of record, the Office makes the following:

FINDINGS OF FACT

That claimant named above was employed by the above named employing establishment; that Notice of Injury and written Claim for Compensation were respectively given and filed; that he sustained a work related injury on April 8, 1964 which was accepted by this Office for contusion right elbow; that claimant did not lose any time from work; that claimant filed a Claim for Compensation on February 2, 1965 due to the injury of April 8, 1964; that it was accepted by this

Office that claimant was suffering from an emotional condition causally related to the accepted injury; of April 8, 1964; that claimant received compensation benefits for temporary total disability from February 2, 1965 through November 22, 1965.

It was determined by this Office that the emotional condition was temporary in nature and that it had ceased by November 22, 1965; that the sole remaining residual disability due to the incident of April 8, 1964 was to the right arm; that claimant received a Schedule Award benefit for a twenty (20) percent loss of function of the right arm for the period November 23, 1965 to February 5, 1967; that medical evidence of record establishes that there has been no increase in the permanent impairment of the right arm subsequent to the issuance of the Schedule Award benefit for twenty (20) percent impairment; that under Section 5 of the Law in effect at the time of the injury no wage loss benefits are payable subsequent to the Award for Permanent Impairment.

Upon the foregoing Findings of Fact it is ORDERED that the claim for compensation benefits be and the same is hereby REJECTED for the following reasons.

Medical evidence of record establishes that there is no causal relationship of the current emotional condition to the accepted injury of April 8, 1964. The accepted emotional condition had ceased by November 22, 1965; (2) there has been no increase in the permanent impairment of the right arm subsequent to the issuance of the Schedule Award; (3) the right arm

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was the sole residual disability due to the accepted injury on April 8, 1964 and under Section 5 of the law in effect at the time of the injury no wage benefits are payable subsequent to the award for permanent impairment.

John PapaJohn, Ph.D.
Consultant Psychologist
70-7 Kirkland Street
Cambridge, MA 02138

January 15, 1990

Michael Brown, Esquire
Grayer, Brown & Dilday
27 School Street
Boston, MA 02108

Dear Mr. Brown,

This is a summary of my evaluation with Mr. Randolph Green who I saw on December 20, 1989.

Mr. Green is a sixty-eight-year-old black man who presents in an articulate and forthright manner. His verbal skills and capacity to state his points well reflects a high level of intelligence. He is in good physical health with the exception of hypertension upon which he has suffered over an extensive period of time. He is married and the father of eleven children ranging in age from 25 to 42. His wife, age 66, is employed and the main breadwinner in the family since he was disabled in a on the job accident in 1964.

Mr. Green worked as a welder at the Watertown Arsenal where he injured his elbow in that capacity and found himself unemployed. Furthermore, the psychological trauma consequent to his physical incapacitation resulted in severe psychological disorganization, which he termed "a nervous breakdown."

The severity of this psychotic illness is reflected in the diagnosis of Schizophrenic reaction, schizoaffective type, which he received when hospitalized at the Bedford Veterans Administration Hospital between September 30 and November of 1965.

This diagnosis was confirmed over the ensuing years in the many psychiatric contacts he has had and which are documented in various reports which he informs me have been submitted to your office.

His latest psychiatric contact was three months ago when a Doctor Patterson of Lexington, Mass., who renewed his, saw him prescription for Triovil, which he has been taking for the last six years. Whenever he has stopped taking this anti-psychotic medication he becomes anxious and severely depressed, paranoid and suicidal. He gets urges, for example., to put his finger in acid, and o touch the third rail when he is taking the T. He reports being exhausted by the stresses incumbent in having his case for compensation honored by the government.

I have read the psychiatric reports Mr. Green brought with him to the session with me and they consistently validate the original psychotic diagnosis. In the review of his original claim issued on April 25, 1966, the diagnosis of Schizophrenic Reaction, Schizo -

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Affective Type "manifested by withdrawal, depression and some paranoid thinking" (Case No. A142911 signed by a T.J. Connelly) as affirmed.

My impression in interviewing Mr. Green was that the statements he made to me were a truthful representation of the facts. I strongly believe his case merits further reexamination in the light of these facts.